

37.115

minds of members of the public or Congress that they are Government officials, unless, in the judgment of the agency, no harm can come from failing to identify themselves. They must also ensure that all documents or reports produced by contractors are suitably marked as contractor products or that contractor participation is appropriately disclosed.

[61 FR 2630, Jan. 26, 1996]

37.115 Uncompensated overtime.

37.115-1 Scope.

The policies in this section are based on Section 834 of Public Law 101-510 (10 U.S.C. 2331).

[62 FR 44815, Aug. 22, 1997]

37.115-2 General policy.

(a) Use of uncompensated overtime is not encouraged.

(b) When professional or technical services are acquired on the basis of the number of hours to be provided, rather than on the task to be performed, the solicitation shall require offerors to identify uncompensated overtime hours and the uncompensated overtime rate for direct charge Fair Labor Standards Act—exempt personnel included in their proposals and subcontractor proposals. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct.

(c) Contracting officers must ensure that the use of uncompensated overtime in contracts to acquire services on the basis of the number of hours provided will not degrade the level of technical expertise required to fulfill the Government's requirements (see 15.305 for competitive negotiations and 15.404-1(d) for cost realism analysis). When acquiring these services, contracting officers must conduct a risk assessment and evaluate, for award on that basis, any proposals received that reflect factors such as:

- (1) Unrealistically low labor rates or other costs that may result in quality or service shortfalls; and
- (2) Unbalanced distribution of uncompensated overtime among skill lev-

48 CFR Ch. 1 (10-1-11 Edition)

els and its use in key technical positions.

[62 FR 44815, Aug. 22, 1997, as amended at 64 FR 51842, Sept. 24, 1999]

37.115-3 Solicitation provision.

The contracting officer shall insert the provision at 52.237-10, Identification of Uncompensated Overtime, in all solicitations valued above the simplified acquisition threshold, for professional or technical services to be acquired on the basis of the number of hours to be provided.

[62 FR 44815, Aug. 22, 1997]

37.116 Accepting and Dispensing of \$1 Coin.

[72 FR 46362, Aug. 17, 2007]

37.116-1 Presidential \$1 Coin Act of 2005.

This section implements Section 104 of the Presidential \$1 Coin Act of 2005 (31 U.S.C. 5112(p)(1)), which seeks to remove barriers to the circulation of \$1 coins. Section 104 requires that business operations performed on Government premises provide for accepting and dispensing of existing and proposed \$1 coins as part of operations on and after January 1, 2008. Pub. L. 110-147 amended 31 U.S.C. 5112(p)(1)(A) to allow an exception from the \$1 coin dispensing capability requirement for those vending machines that do not receive currency denominations greater than \$1.

[72 FR 46362, Aug. 17, 2007, as amended at 73 FR 54016, Sept. 17, 2008]

37.116-2 Contract clause.

Insert the clause at 52.237-11, Accepting and Dispensing of \$1 Coin, in solicitations and contracts for the provision of services that involve business operations conducted in U.S. coins and currency, including vending machines, on any premises owned by the United States or under the control of any agency or instrumentality of the United States.

[72 FR 46362, Aug. 17, 2007]